

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP
(954) 797-1101

SUBJECT: Waiver

Home Depot USA, Inc., 5801 South University Drive, generally located on the west side of University Drive east of SW 82 Avenue north of Stirling Road.

TITLE OF AGENDA ITEM:

Request by Home Depot USA, Inc. for waiver of the one year time limit on the hearing of variances on the same property.

REPORT IN BRIEF: Home Depot USA, Inc. requests the waiver of the one year time limit on the hearing of variances on the same property in order to petition for additional variances relating to signage. On March 12, 2001, Home Depot USA, Inc. was granted three (3) variances under petition V 11-1-00. Land Development Code Section 12-309(C)(5) states that whenever the council has acted upon a variance for property, whether approved or denied, the Planning and Zoning Board shall not thereafter consider any further application for the same or any other kind of variance for any part or all of the same property for a period of one (1) year. The above time limits may be waived by a majority vote of the Council when the Council deems such action necessary to prevent injustice or to facilitate the proper development of the Town. Home Depot USA, Inc. has offered no justification for the requested waiver. No injustice has been claimed or can be found, and variances relating to signage are not necessary to facilitate proper development of the city as the Land Development Code provides for adequate signage. It is noted that representatives of Home Depot USA, Inc. stated that they would not be requesting variances relating to signage when the question was asked directly by the Planning and Zoning Board, and stated this during meetings with staff for variance petition V 11-1-00.

PREVIOUS ACTIONS: Town Council tabled this item from the July 18, 2001 to the August 1, 2001 meeting at the request of the petitioner (Motion carried 5-0, July 18, 2001).

CONCURRENCES: None

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to Deny

Attachment(s): Justification letter, Land use map, Subject site map, Aerial, V 11-1-00 Planning Report

**RUDEN
McCLOSKEY
SMITH
SCHUSTER &
RUSSELL, P.A.
ATTORNEYS AT LAW**

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June 14, 2001

VIA TELECOPIER

Mr. Jeff Katims
Town of Davie
6591 S.W. 45th Street
Davie, FL 33314

PREVIOUSLY FAXED

Re: Home Depot Generally Located at the Northwest Corner of University Drive and
Stirling Road ("Property")

Dear Jeff:

As you know, Home Depot USA, Inc. ("Home Depot") has previously requested and received variances for the above-referenced Property. Home Depot would like to now apply for an additional variance relating to signage for the Property, however, Section 12-309 of the Town of Davie Land Development Code provides that:

"Whenever the Council has acted upon a variance for property...the Planning and Zoning Board shall not thereafter consider any further application for the same or any other kind of variance for any part of all of the same property for a period of one (1) year. The above time limits may be waived by a majority vote of the Council when the Council deems such action necessary to prevent injustice, or to facilitate the property development of the City."

Pursuant to that section, we respectfully request that the referenced time limit waiver request be placed on the next available Town Council agenda for consideration.

Thank you for your assistance. If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.



Stephanie J. Toothaker-Walker

SJW/kgd

cc: Dennis D. Mele, Esq.

TEL: 787666-1

FORT LAUDERDALE ■ MIAMI ■ NAPLES ■ PORT ST. LUCIE ■ SARASOTA ■ ST. PETERSBURG ■ TALLAHASSEE ■ TAMPA ■ WEST PALM BEACH

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP/(954) 797-1101

SUBJECT: Variance

Project Name and Location: Home Depot University Creek. 5801 South University Drive, generally located on the west side of University Drive east of 82nd Avenue north of Stirling Road.

TITLE OF AGENDA ITEM:

V 11-1-00 Applicant: Michael Gai, petitioner/Home Depot/University Creek II Associates LTD, Fidel Farias, and Marc Geiserman, Trustee, owners.

REPORT IN BRIEF:

Request three (3) variances **FROM:** Section 12-55, which limits individual building size in B-2, Community Business Districts to 40,000 square feet, **TO:** allow a 136,467 square-foot freestanding retail store; **FROM:** Section 12-55, which limits the size of shopping centers in B-2, Community Business Districts to 100,000 square feet, **TO:** allow a 207,764 square foot shopping center; **FROM:** Section 12-208, which requires 971 parking spaces on the subject site, **TO:** reduce the number of required parking spaces by 83 for a total of 888.

PREVIOUS ACTIONS: None.

CONCURRENCES:

The Planning and Zoning Board voted to conditionally approve the request at its February 28, 2001 meeting (motion carried 5-0).

FISCAL IMPACT: None.

RECOMMENDATION(S): Motion to approve.

Attachment(s): Applicant's Justification letter, Land Use Map, Subject Site Map, Aerial.

Application #: V 11-1-00

Revisions:

Exhibit "A"

Original Report Date: February 28, 2001

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner: #1

Name: Marc Geiserman, Trustee
The Admiral Building
Address: 1645 SE 3 CT, Suite 200
City: Deerfield Beach, FL 33441
Phone: (954)421-1001

Agent:

Name: Michael Gai
Sun-Tech Engineering
Address: 1600 West Oakland Park BLVD
City: Fort Lauderdale, FL 33311
Phone: (954)777-3123

Owner #2:

Name: Fidel Farias
Address: 5850 SW 82 AVE
City: Davie, FL 33328
Phone: (954)680-6308

Contract Purchaser:

Name: Home Depot USA
University Creek II
Associates, LTD
Address: The Admiral Building
1645 SE 3 CT, Suite 200
City: Deerfield Beach, FL 33441
Phone: (954)421-1001

BACKGROUND INFORMATION

Date of Notification: February 21, 2001 **Number of Notifications:** 21

Application Request: Three (3) variances **FROM:** Section 12-55, which limits individual building size in B-2, Community Business Districts to 40,000 square feet, **TO:** allow a 136,467 square-foot freestanding retail store; **FROM:** Section 12-55, which limits the size of shopping centers in B-2, Community Business Districts to 100,000 square feet, **TO:** allow a 207,764 square foot shopping center; **FROM:** Section 12-208, which requires 971 parking spaces on the subject site, **TO:** reduce the number of required parking spaces by 83 for a total of 888.

Address/Location: 5801 South University Drive, generally located on the west side of University Drive east of 82nd Avenue north of Stirling Road.

Future Land Use Plan Designation: Commercial

Zoning: B-2, Community Business District; A-1, Agricultural District (under consideration for rezoning to B-2)

Existing Use: Vacant structure (former Winn Dixie), Burger King, Shorty's Bar-B-Que, Miami Subs, University Creek Shopping Center, Agricultural

Proposed Use: Existing 60,000 square foot retail center with addition of a 136,467 square foot home improvement retail center to replace the vacant Winn Dixie

Parcel Size: 22.53 acres (981,406.8 square feet)

<u>Surrounding Uses:</u>		<u>Surrounding Land Use Plan Designation:</u>
North:	Commercial, Vacant	Commercial
South:	Commercial, Vacant, Agricultural	Commercial
East:	Vacant	Commercial/Office
West:	Vacant, Agricultural	Commercial, Residential 3 DU/AC

Surrounding Zoning:

North: B-1, Neighborhood Business District; B-2, Community Business District
South: A-1, Agricultural District; Unincorporated Broward County
East: CC, Commerce Center District
West: CF, Community Facilities District; A-1, Agricultural District

ZONING HISTORY

Related Zoning History: None.

Previous Request on same property:

The site plan for the University Creek Plaza was approved by Town Council on May 5, 1985.

APPLICATION DETAILS

Currently, a site plan for the subject site is being reviewed as petition SP 10-5-00 and a portion of the subject site is being considered for rezoning under petition ZB 10-1-00. A 136,467 square foot home improvement center is proposed in place of the vacant Winn Dixie, to be demolished. The rezoning is required to convert 6.12 acres of adjacent agricultural land into parking, retention, and landscaping for the proposed Home Depot. In order for the petitioner to develop the site as a home improvement retail center three (3) variances are required. The first two (2) variances required are from Section 12-55 of the Land Development Code, which limits the size of individual buildings and shopping centers in the B-2, Community Business District, to 40,000 and 100,000 square feet respectively. To operate their business successfully, the petitioner requires a total of 136,464 square feet of retail space, and the shopping center as a whole will be 207,764 square feet. It should be noted that the existing vacant Winn Dixie grocery store, which will be demolished, is 72,000 square feet and is nonconforming as to Section 12-55 of the Land Development Code, as this limitation on the size of individual buildings in the B-2, Community Business District did not exist when the building was constructed.

Applicable Codes and Ordinances

1. Section 12-55 of the Land Development Code limits individual building size in B-2, Community Business Districts to 40,000 square feet.
2. Section 12-55 of the Land Development Code limits the size of shopping centers in B-2, Community Business Districts to 100,000 square feet.
3. Section 12-208 of the Land Development Code parking requirements.

Comprehensive Plan Considerations

Planning Area: The subject site falls within Planning Area 10. This Planning Area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Pine Island Road, a major north/south arterial, on the western limits of this planning area provides through access from Griffin Road to Stirling Road. Commercial development of retail centers and office buildings line the side of the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family residential development (one existing, one proposed) and plant nurseries on the northern half of the corridor, and commerce park development and cattle grazing on commerce park-zoned lands on the southern half. Commercial development also exists along Griffin Road within this planning area. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an 8 acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. These include, but are not limited to, a regional library, multiple church uses varying scales, a girl scout campground facility, and a private school. The Town is optimistic in the potential expansion of commercial uses within this planning area, given the increased accessibility provided by Pine Island Road, and potential development of agricultural lands in the years to come.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives & Policies:

Future Land Use Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of its economy.

Staff Analysis

The intent of the B-2, Community Business District Zoning designation is to provide businesses an area to service the needs of several neighborhoods or the local community. The intent of the B-3 District is to accommodate large shopping centers that serve larger areas than centers permitted in the B-2 District. The Home Depot and other “big box” stores serve this purpose. However, through Section 12-55 of the Land Development Code, neither the B-2 nor B-3 Districts, nor any other commercial zoning district in the town permit freestanding buildings of large enough area to accommodate such common retail stores. Several existing stores and shopping centers exceed this size, as they were approved prior to the adoption of this Code provision. The existing vacant Winn Dixie grocery store, which will be demolished, is a 72,000 square foot visual blight that serves as

just one example of the several centers that do not conform to Section 12-55 of the Land Development Code. Therefore, the size limitations imposed by Section 12-55 of the Land Development Code appear to be inadequate and inappropriate guidelines for development. Staff recommends the Town initiate a Code amendment to adjust the development intensity thresholds to reflect more appropriate and realistic standards, or to eliminate the section altogether.

Staff cannot support the third variance request, for an 83-space reduction in the number of parking spaces required for the center (971), for a total of 888 parking spaces. As part of their effort to develop this site, the applicant has acquired an additional 6.12 acres of adjacent agricultural land for the purposes of parking, stormwater retention, and landscaping. This acquisition is not of sufficient size to accommodate the parking for the proposed 136,467 square-foot store, given that the remainder of the shopping center relies on the proposed Home Depot site to meet a portion of its required parking. The inadequacy of the 6.12 acres is particularly noteworthy given two (2) adjacent parcels being acquired by the owners of the existing shopping center for additional development. Said properties are currently under staff review for rezoning.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to variances 1 and 2: FROM Section 12-55, which limits individual building size in B-2, Community Business Districts to 40,000 square feet, allow a 136,467 square-foot freestanding retail store; **FROM:** Section 12-55, which limits the size of shopping centers in B-2, Community Business Districts to 100,000 square feet, **TO:** allow a 207,764 square foot shopping center;

(a) There may be special circumstances or conditions applying to the land or building for which the variances are sought, which circumstance or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstance or condition is such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

Nearly all of the major shopping centers within the Town are nonconforming relative to Section 12-55, including the existing vacant structure and shopping center on the subject site. The subject shopping center may be the only center within the Town capable of expansion but prohibited from doing so by code section 12-55. Further, the north portion of the center (former Winn Dixie) is deteriorating to the point of becoming blighted, and has limitations on use due to restrictions Winn Dixie places on the use of the structure for anti-competitive purposes. Staff notes that section 12-55 is unrealistic and should be amended or eliminated.

(b) The granting of the variances may be necessary for the reasonable use of the land or building and that the variances as requested may be the minimum variances that will accomplish this purpose.

Section 12-55 places limitations on the sizes of individual buildings and shopping centers that do not reflect the development trends of the past decade. Increasingly, more services

are being provided on a neighborhood or sub-community level in order to increase convenience and reduce the need for travel. Another trend has been to offer one-stop shopping with larger stores of all kinds, including home improvement, books, general merchandise, office supplies, clothing, housewares and supermarkets, which have all increased in average size. Section 12-55 is at odds with these trends, as are nearly all of the larger shopping centers within the town. Therefore, section 12-55 may severely restrict the use of a community-scale shopping center parcel such as the subject site.

(c) Granting of the requested variances, are in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

As discussed under criteria (b), above, the variance request is consistent with the majority of community-scale shopping center development within the Town.

The following findings of facts apply to variance request number 3: FROM Section 12-208, which requires 971 parking spaces on the subject site, **TO:** reduce the number of required parking spaces by 83 for a total of 888.

(a) There are not special circumstances or conditions applying to the land or building for which the variance is sought, which are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstance or condition is such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variance is sought. The alleged hardship is self-created by any person having an interest in the property.

Additional land appears to be available for parking to offset the deficit the home improvement store would create, as evidenced by two (2) commercial rezoning applications submitted by the owners of the shopping center for land abutting the center. A portion of these lands could be utilized to eliminate the parking deficit.

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variances as requested are not the minimum variances that will accomplish this purpose.

The applicant has not demonstrated that additional land cannot be acquired to accommodate the required amount of parking.

(c) Granting of the requested variance, is not in harmony with the general purpose and intent of this chapter and may be injurious to the neighborhood or otherwise detrimental to the public welfare.

The parking code was recently amended to reduce the parking requirement for retail uses, shopping centers and home improvement stores. Staff is concerned that a nearly 12 percent reduction in parking may create a parking shortage at the center.

Staff Recommendation

Recommendation:

Variance Requests 1 and 2: FROM Section 12-55, which limits individual building size in

B-2, Community Business Districts to 40,000 square feet, allow a 136,467 square-foot freestanding retail store; **FROM:** Section 12-55, which limits the size of shopping centers in B-2, Community Business Districts to 100,000 square feet, **TO:** allow a 207,764 square foot shopping center: Based upon the above and the finding of facts in the positive, staff recommends approval.

Variance Request 3: FROM Section 12-208, which requires 971 parking spaces on the subject site, **TO:** reduce the number of required parking spaces by 83 for a total of 888. Based upon the above and finding of facts, and negative, staff recommends denial.

Planning & Zoning Board Recommendation

The Planning and Zoning Board recommended conditional approval of petition V 11-1-00. The two (2) conditions are 1) that there be a cross parking agreement between Home Depot and the other shops in the University Creek Plaza and 2) that Home Depot would not use the parking lot for outdoor sales displays. (Motion carried 5-0, February 28, 2001).

Exhibits

1. Justification letter
2. Land Use Map
3. Subject Site Map
4. Aerial

Prepared by: _____

Reviewed by: _____

Exhibit "A"

JUSTIFICATION FOR REQUESTED VARIANCES

Home Depot U.S.A., Inc. ("Home Depot") proposes to construct a home improvement store and garden center on the parcel of property generally located at the northwest corner of the intersection of University Drive and Stirling Road in the Town of Davie within the University Creek Plaza (collectively, the "Property"). In furtherance of this development proposal and related site plan submittal, Home Depot currently seeks to obtain from the Town of Davie, Florida ("Town") three separate variances, as follows:

- (1) A variance permitting Home Depot to exceed the maximum individual building size of 40,000 sq. ft., as set forth for B-2 districts in Section 12-55 of the Town of Davie Code of Ordinances (the "Code").
- (2) A variance permitting Home Depot to exceed the maximum aggregate shopping center size of 100,000 sq. ft., as set forth for B-2 districts in Section 12-55 of the Code.
- (3) A variance relieving Home Depot from the requirements of Section 12-208 of the Code, which sets forth the requirements for off-street parking by permitting University Creek Plaza a reduction of 83 parking spaces.

As discussed below, the granting of these variances will adhere to the variance review criteria set forth in Section 12-309(B)(1) of the Code. Home Depot will demonstrate: (1) that peculiar circumstances warrant the present variances, as to proceed otherwise would deny Home Depot reasonable use of its property; (2) that the proposed variances are the minimum variances that will accomplish Home Depot's stated purpose; and (3) that allowing the requested variances will be in harmony with the general purpose and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

VARIANCE NOS. 1 & 2

University Creek Plaza consist of a 59,837sq. ft. of in-line commercial, 11,460sq. ft. of out-parcels, and 75,000 sq. ft. of an abandoned Winn Dixie on 16.41 acres. Home Depot proposes to purchase an additional 6.12 acres to the west, demolish the Winn Dixie and construct a 136,467 sq. ft. Home Improvement Store for a total of 207,764 sq. ft. on 22.53 acres. Home Depot's proposed site plan consists of 15.34 acres and 136,467sq. ft. of Home Improvement Store. However, because the subject Property lies in a B-2 development district, Section 12-55 of the Code expressly limits the size of proposed individual buildings to 40,000 sq. ft., and shopping centers, to 100,000 sq. ft. As a result, Home Depot presently seeks two variances, relieving it from the size limitations set forth in Section 12-55 of the Code.

A. Unique and special circumstances or conditions exist

Special circumstances exist in the present case that warrant the granting of the requested variances. Specifically, the Property at issue is currently occupied by an abandoned grocery store measuring 75,000 sq. ft., and an in-line commercial building consisting of 59,837 sq. ft. Thus a nonconforming structure exceeding the size limitations set forth in Section 12-55 is already present on the property. As is evident from the current nonconforming use, the Property is clearly capable of maintaining a structure that exceeds the limitations set forth in Section 12-55. Furthermore, the neighboring property owners have already adapted to the presence of a larger use, and have existed in harmony with the larger structure for a number of years.

B. Strict Application of the Code Would Deprive Home Depot of Reasonable Use of its Property.

A home improvement store cannot reasonably and successfully exist in a structure that is less than 40,000 sq. ft. Such space limitations will not allow Home Depot to provide its patrons with a reasonable variety and quantity of supplies. In short, to require Home Depot to establish a home improvement store in a structure within the present size restrictions would impose a severe hardship upon Home Depot, and is not a viable option.

C. Home Depot's Alleged Hardship is Not Self-Created.

The location and size of the Property at issue is not the result of Home Depot's actions, nor is the variance request a mere disregard for the provisions of the Code. Rather, due to the limited availability of property in the area, Home Depot was relegated to the present property in its efforts to bring a home improvement store to the citizens of the Town. The proposed store is to be at a location that provides the maximum possible accessibility to the public, and is in compliance with the intent of the Code.

D. Variances Requested are the Minimum Variances Required to Accomplish Reasonable Use of the Property.

This request is the minimum variance required. All other regulations will be satisfied with the proposed improvements.

E. Granting of the Variances Will Be in Harmony with the General Intent and Purpose of the Code and Will Not Be Injurious to the Neighborhood or Otherwise Detrimental to the Public Welfare.

Approval of the requested variances is in harmony with the general intent and purpose of the Code. Indeed, the underlying purpose of the Code is to "protect, promote and improve the public health, safety, order, appearance, morals and general welfare of the citizens of the Town of Davie, Florida." Code, Section 12-4. To that end, the Code implements policies regarding, among other things, the preservation of community character and the maintenance of a rational pattern of land use. These policies favor the issuance of the requested variances.

If the present variances are granted, the preservation of the community character will be met in various fashions. First, as discussed above, the subject Property is presently occupied by an abandoned grocery store, which measures 75,000 sq. ft. and 59,837 sq. ft. of in-line commercial. Clearly, as the abandoned structure also exceeds the minimum square footage provided for under the Code, the community character is one that already provides for uses exceeding 40,000 sq. ft. Second, Home Depot's proposed home-improvement store would preserve the community character by sparing the residents and visitors of the Town the visual blight presented by an abandoned grocery store. Third, because Home Depot stores have a history of success, the proposed store will therefore provide additional employment opportunities and general economic prosperity to the benefit of the community that otherwise would not have been present. Fourth, the proposed development will aid hundreds of families during each annual hurricane season, when citizens invariably wait until the last minute to purchase needed lumber and hurricane supplies. By granting the variance and permitting the construction of a reasonably sized home-improvement store, the Town will lessen the stressful and frenzied impact of impending hurricanes. Finally, the proposed Home Depot store will promote the general community welfare through the fostering of home improvement and ownership.

A rational pattern of land use will likewise be promoted through the granting of the requested variances. As discussed above, the subject Property is presently occupied by an abandoned grocery store measuring 75,000 sq. ft. and 59,837 sq. ft. of in-line commercial building. Evidently, as the abandoned structure also exceeds the minimum square footage promulgated under the Code, the Property is large enough to encompass larger uses. Because Section 12-55 does not consider the relative size of the actual parcel in setting the maximum allowable sizes for buildings and shopping centers, a rational pattern of land use dictates that variances are warranted where the property in question is of a sufficient size to maintain the larger use.

VARIANCE NO. 3

Section 12-208 of the Code sets forth the requirements for off-street parking. Home Depot respectfully requests a variance from this provision. Based upon calculations pursuant to the Code, a total of 971 spaces are required for the out-parcels, in-line shopping center, and the Home Depot combined. Home Depot respectfully requests a variance from Section 12-208 to provide for 888 parking spaces for the entire University Creek Plaza Shopping Center and Proposed Home Depot, for a total reduction of 83 parking spaces. The reasons supporting such a variance are set forth below.

A. Unique and special circumstances or conditions exist

Special circumstances apply to the present case, which are peculiar to the subject Property. The use, site and structure of the shopping center evidence special characteristics that support a determination that the need for parking is less than that required by the Code. Specifically, the parking lot will likely not be utilized to capacity at any given time due in part to the stores experiencing their peak traffic at varying times. For instance, as to Home Depot, contractors and builders who comprise a large number of Home Depot's patrons, will generally

utilize Home Depot's services from 6 am to 9 am and 5 pm to 9 pm, during which most of the other stores are not open for business. The time variations in parking demand for different uses demonstrates that the proposed 888 parking spaces will adequately serve the shopping center.

B. Strict Application of the Code Would Deprive Home Depot of the Reasonable Use of its Property

Literal interpretation of the Code in the present case will impose a severe hardship on Home Depot in that to comply with the parking requirements promulgated under the Code, Home Depot is presented with the inordinately difficult task of procuring additional property to meet the Code's parking requirements. Although Home Depot made every conceivable effort to procure additional space, and purchased an additional six (6) acres of land to the west of the original proposed site, such additional contiguous property is, under the present circumstances, very limited.

C. Home Depot's Alleged Hardship is Not Self-Created

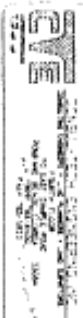
Home Depot has not created, nor contributed to the present circumstances affecting the parking situation. Instead, Home Depot intends to make use of space at an existing shopping center that was vacated by its previous occupant.

D. Variance Requested Is the Minimum Variance Required to Accomplish Reasonable Use of the Property

The purpose of the requested variance is to accomplish the most efficient utilization of the parking area, while providing a sufficient amount of parking to all the patrons. Even accounting for the increase in square footage for Home Depot, 888 parking spaces will be more than adequate to serve Home Depot and the University Creek Plaza shopping center. This request is the minimum variance required. All other provisions of the Code with respect to parking are otherwise satisfied.

E. Granting of the Variance Will Be in Harmony with the General Intent and Purpose of the Code and Will Not Be Injurious to the Neighborhood or Otherwise Detrimental to the Public Welfare

Approval of this variance is in harmony with the general intent and purpose of the Code. The proposed parking reduction will have no adverse impact on the surrounding properties, as 888 parking spaces will more than adequately provide for the needs of the entire shopping center as well as offer the most efficient use of the area without having to construct unnecessary additional parking. Because the entire shopping plaza, including the proposed Home Depot will provide sufficient parking for all the uses, the general safety and welfare of the Town's citizens will be protected.



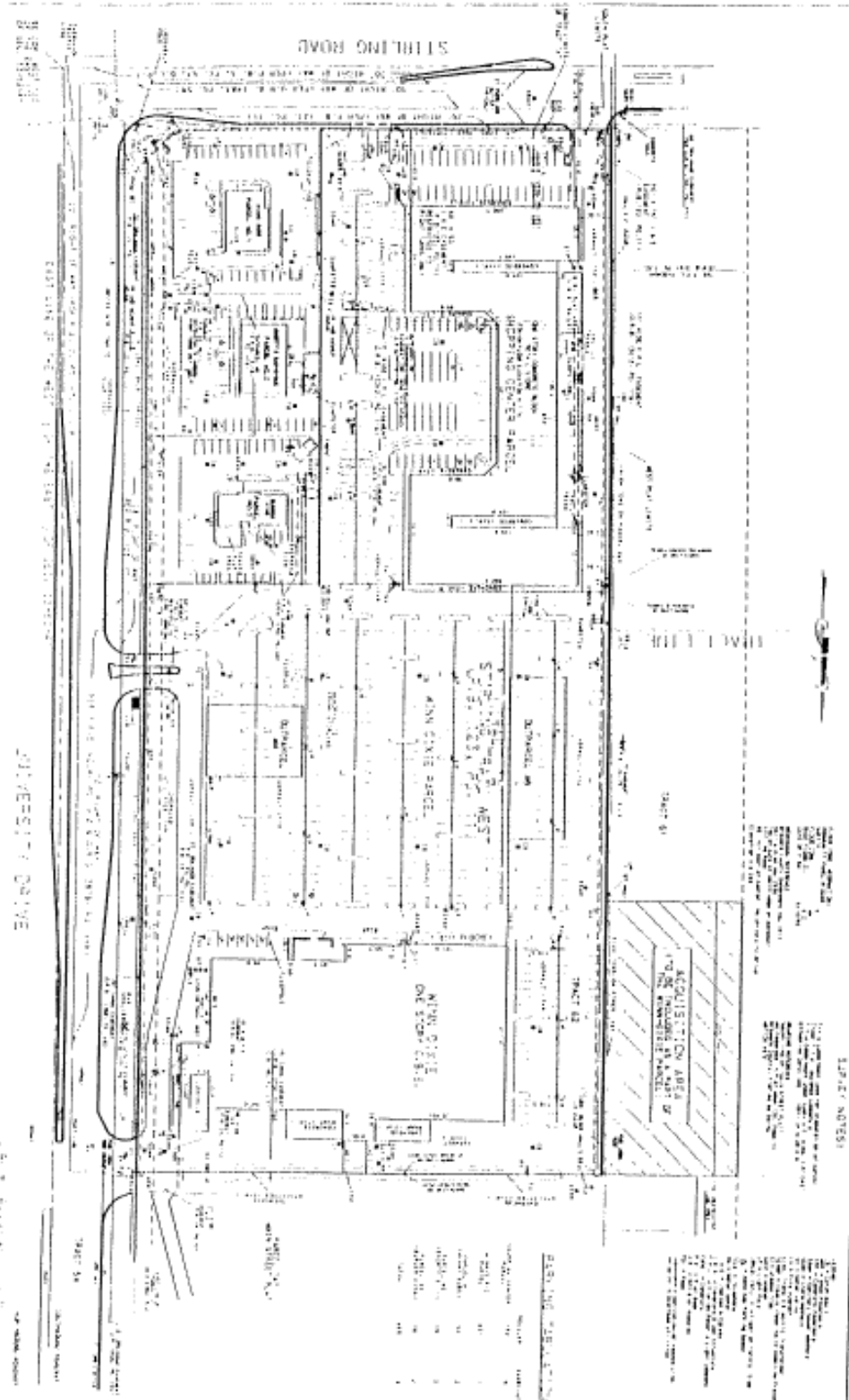
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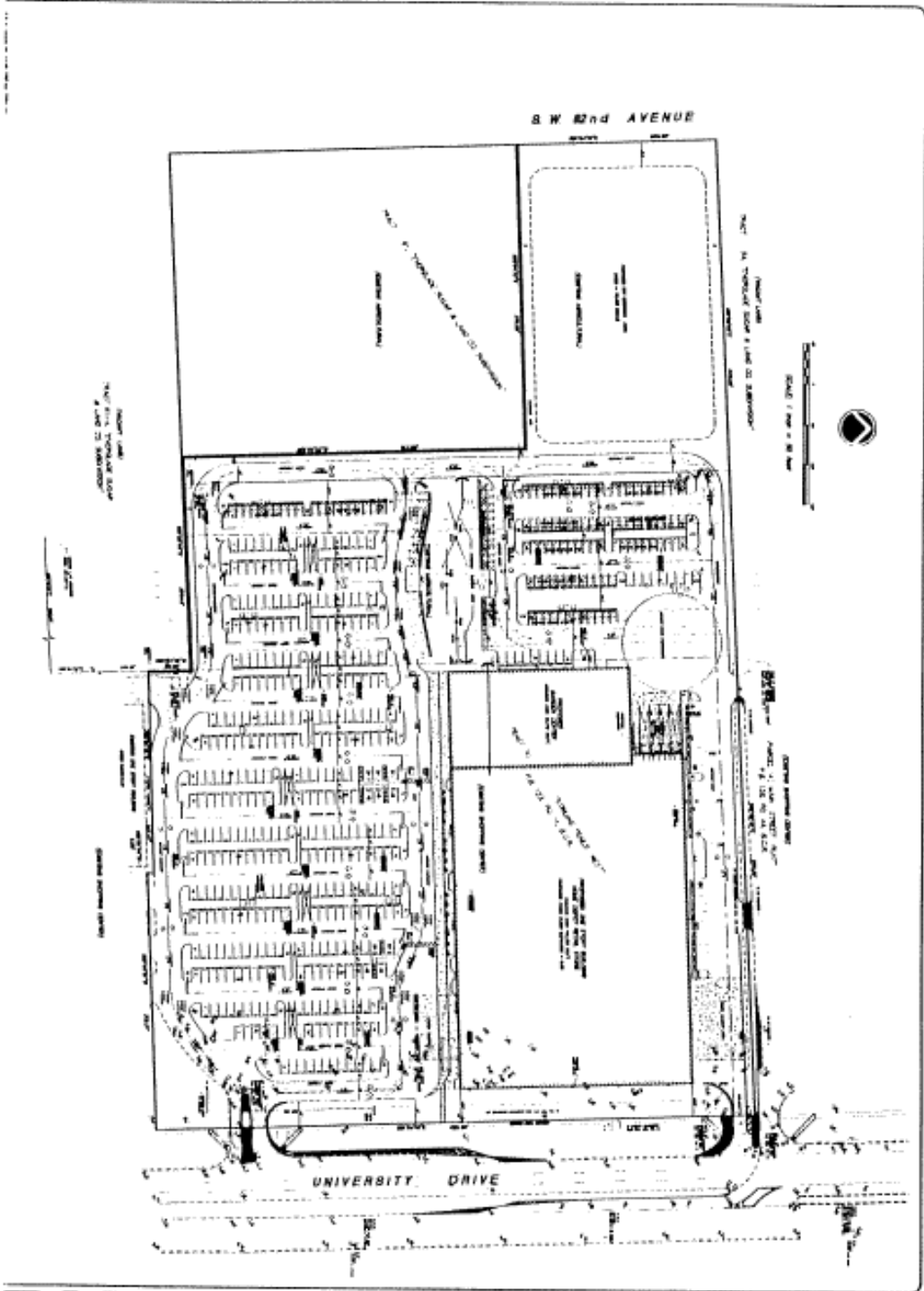
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PLAZA
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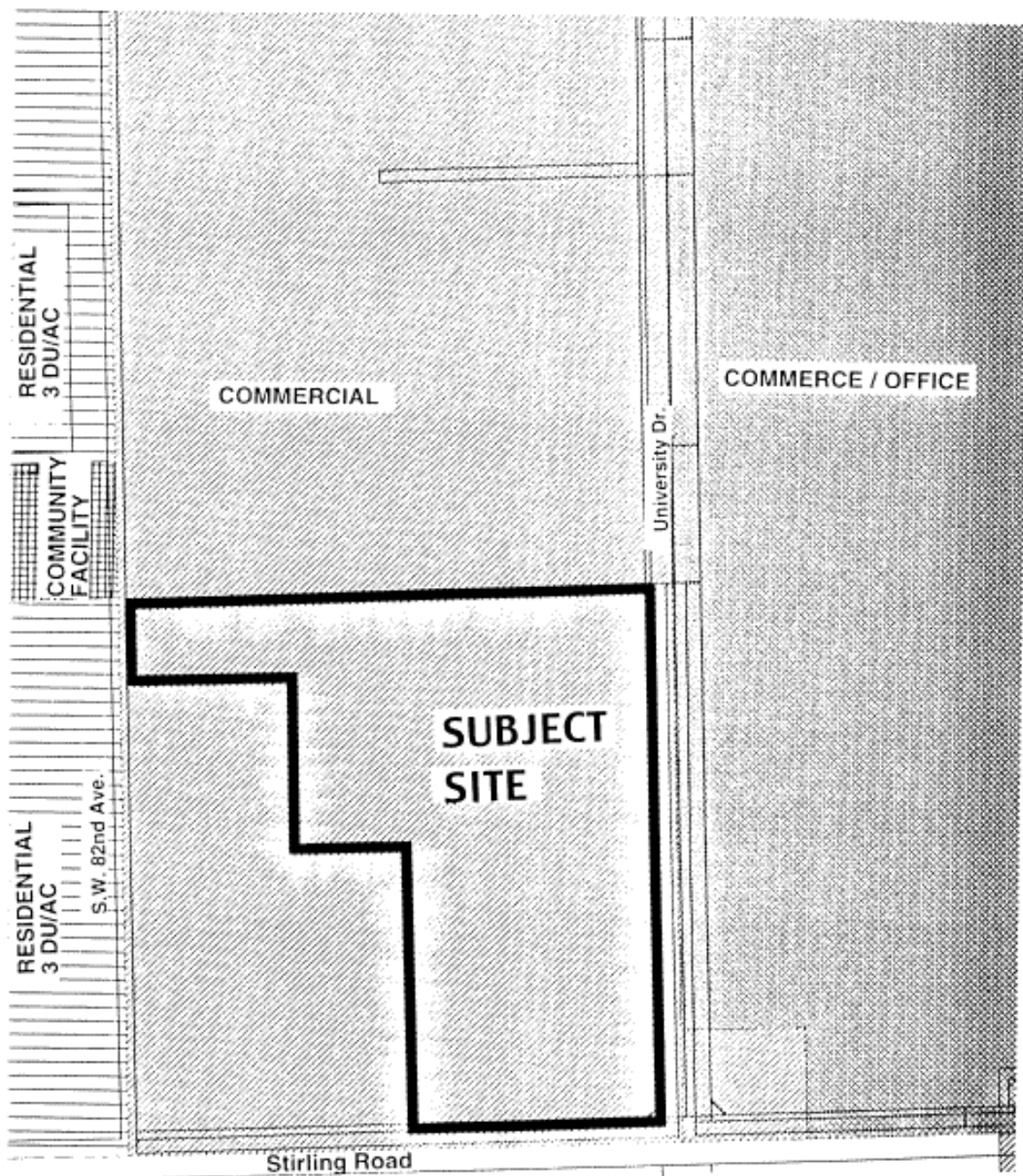
UNIVERSITY CREEK
PLAZA
BOUNDARY SURVEY

UNIVERSITY CREEK
PLAZA
BOUNDARY SURVEY





<p>HOME DEPOT STIRLING RD & UNIVERSITY DR</p> <p>SITE PLAN</p>		<p>DATE: 09/11/2006</p> <p>BY: [Signature]</p> <p>FOR: [Signature]</p>	<p>STech Sun-Tech Engineering, Inc.</p> <p>11111 W. 11th Ave. Suite 100 Denver, CO 80231 Tel: 303.751.1111 Fax: 303.751.1112</p>
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PETITION NUMBER
V 11-1-00
Subject Site Area
Future Land Use Plan

PREPARED 2/11/01
BY THE PLANNING &
ZONING DIVISION

Scale: 1"=300'

N
4

